

NTSB Order No. EA-4932

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 7th day of January, 2002

Respondent .

Docket SE-15941

Respondent has appealed from the oral initial decision of Administrative Law Judge Patrick G. Geraghty, issued on August 15, 2000, following an evidentiary hearing.¹ The law judge affirmed an order of the Administrator, on finding that respondent had violated 14 C.F.R. 119.5(g), 119.5(l), and 43.9(a) of the Federal Aviation Regulations ("FAR," 14 CFR Parts 119 and 43), in connection with an August 18, 1999 flight for which he

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was pilot-in-command.² We deny the appeal.

The two questions before us are whether respondent, without authority, performed an air ambulance flight on August 18, 1999, and whether he installed a stretcher in the aircraft for the patient in violation of regulatory requirements. The law judge found in the affirmative on both counts, and we see no basis in the appeal to modify those findings.

Respondent argues that he received no benefit in goodwill or money from the flight, doing it only to help a friend, and that "he was going in that direction anyway," so to speak.³ The law judge found differently, however, relying on unrebutted evidence that respondent had inquired of the FAA a number of times concerning requirements for obtaining an air ambulance license (to add to his Part 135 certificate). It was not unreasonable for the law judge to conclude that respondent performed the service as a gesture of goodwill and it is of no moment that he

² Section 119.5(g) prohibits operation as a direct air carrier without appropriate certificates and operating specifications. Section 119.5(l) prohibits a person from operating an aircraft in violation of the air carrier operating certificate or operating specifications. Section 43.9(a) requires that each person who maintains, performs preventive maintenance on, rebuilds, or alters an aircraft, airframe, engine, propeller, appliance, or component part shall make an entry in the maintenance record of that equipment.

³ The friend, Greg Trippe, is a partner in Air Care International, a licensed air ambulance service. Respondent transported Mr. Trippe and a patient, who arrived and departed in an ambulance. Mr. Trippe acted as the patient's nurse during the flight. Mr. Trippe obtained this business through a contract with the Veterans Administration. It matters not that the patient boarded and deplaned unassisted.

received no direct compensation. The law judge's conclusion is, at bottom, a credibility decision that respondent offers no basis to overturn. Administrator v. Smith, 5 NTSB 1560, 1563 (1987), and cases cited there (resolution of credibility issues, unless made in an arbitrary or capricious manner, is within the exclusive province of the law judge). Further, as the law judge opined, when he agreed to transport Mr. Trippe and his patient, respondent was acting, in effect, on behalf of or as agent for Air Care International, because the patient was transported that day under that company's contract with the Veterans Administration.

We also find substantial evidence to support the § 43.9(a) allegation. As noted, that section requires that alteration to an aircraft be accompanied by a log entry. Adding a stretcher – whether he had completed the final installation or not – clearly is an alteration to the aircraft. Respondent did not make any log entry. These are straight-forward conclusions based on the wording of the regulation. We need not reach the issue of whether the alteration was major, requiring a Supplemental Type Certificate (STC) and/or a Form 337. And, respondent's argument that an STC existed is misguided, as respondent had no such certificate for the aircraft used on the flight.

ACCORDINGLY, IT IS ORDERED THAT:

1. Respondent's appeal is denied; and
2. The alternative 30-day suspension of respondent's

certificates or a 15-day suspension accompanied by a \$1,000 civil penalty (which the Administrator did not appeal) shall begin 30 days from the service date indicated on this opinion and order.⁴

BLAKEY, Chairman, CARMODY, Vice Chairman, and HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above opinion and order.

⁴ For the purpose of this order, respondent must physically surrender his certificates to a representative of the Federal Aviation Administration pursuant to 14 C.F.R. 61.19(f).